

MARINE SAFETY MANUAL

CHAPTER 5. CONTROL OF OCEAN DUMPING

- A. Ocean Dumping Authority. Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA) 33 U.S.C. 1401 et seq., prohibits, with certain exceptions, the dumping or transportation for dumping of "materials" into ocean waters without a permit. MPRSA, as amended, implements the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 1972, referred to as the London Dumping Convention, to which the U.S. is a party.
- B. Federal Responsibilities. The Ocean Dumping Program is primarily the responsibility of the Environmental Protection Agency (EPA), which issues permits for ocean disposal. EPA regulations for ocean dumping are in 40 CFR 220 et seq. Permits for the dumping of dredged materials are issued by the U.S. Army Corps of Engineers (USACE). USACE regulations related to dredging and dumping are found in 33 CFR 323 for discharges of dredged or fill material into waters of the U.S., and 33 CFR 324 for ocean dumping of dredged material. Federal projects involving disposal of dredged material are covered by 33 CFR 209.145. Section 107(c) of the MPRSA, 33 U.S.C. 1417(c), assigns to the Secretary of the Department in which Coast Guard is operating responsibility for surveillance and other enforcement activities to prevent unlawful dumping or transportation of materials for dumping. This responsibility has been delegated to the Commandant under 49 CFR 1.46(n)(5).
- C. Ocean Dumping Permits.
1. General Permits. General permits are authorized by the Administrator of the EPA for materials that are determined to have a minimal environmental impact; that is, for nontoxic materials generally disposed of in small quantities (see 40 CFR 221 and 229). Examples of general permits include those issued for burials at sea, the sinking of U.S. Navy target vessels, and the disposal of vessels in the ocean. General permits are published in the Federal Register; they specify the types and amounts of materials which may be dumped, the designated dump areas, and other conditions deemed appropriate by the EPA. These permits are valid for an indefinite period of time.
 2. Special Permits. Special permits are issued to specific applicants and have fixed expiration dates. Any person desiring to dump material (with the exception of fish wastes in certain areas and any materials covered by a general permit) or to transport material from the U.S. for ocean dumping must first obtain a special permit from the EPA or USACE as specified in the MPRSA. Emergency, interim, and research permits are variations of special permits. Permit categories are defined in EPA's Ocean Dumping Regulations (40 CFR 220.2). A special permit may be issued to an applicant after evaluation of the need, the effect on the environment, and alternative disposal methods. Permits will specify the type and quantity of material authorized to be dumped, the site, disposal criteria such as the distance to be traversed during the discharge, the permit expiration date, and other appropriate conditions. Approved dump sites are listed in EPA's Ocean Dumping Regulations (40 CFR 228).
 3. Statements Of Findings. Statements of Findings are issued by the USACE to authorize ocean dumping of dredged material associated with federal navigation projects. These activities may be conducted by either USACE or contract vessels.

D. Review Of Permit Applications. EPA and USACE regulations require copies of public notices regarding ocean dumping applications to be forwarded to the appropriate Coast Guard district. The district commander will review the notices, and may request the imposition of additional provisions/conditions on the permit, to facilitate surveillance and enforcement activities. Examples of such conditions are: use of specific navigation techniques, forwarding of certain vessel logs or records to the Coast Guard, requirement to communicate vessel movement and activities, shiprider requirements, and restrictions of nighttime operations.

E. Surveillance Of Ocean Dumping.

1. Surveillance. For the purposes of implementing the MPRSA, "surveillance" includes all activities necessary to ensure that ocean dumping is in accordance with the requirements of the MPRSA and other appropriate laws and regulations, and with the terms of the permit issued pursuant to the act.

a. Program Oversight. District commanders shall issue appropriate guidance to field units directly engaged in ocean dumping surveillance, specifying the location and primary use of active dump sites and other guidance as necessary. The EPA provides Coast Guard units directly engaged in surveillance and enforcement with copies of permits and Statements of Findings for their area of operation. Tabular summaries containing vessel name, authorized materials, dump site location, expiration date, dispersal rates, and other appropriate information may be substituted in lieu of actual permits.

b. Scope Of Coast Guard Activities. Coast Guard surveillance activities include: checking the validity of permits; verifying vessel logs, permits, and waste documentation; obtaining radio reports of dump vessel position and activity; observing transportation routes and disposal sites; escorting or riding of dump vessels; monitoring dumping activities; and utilizing electronic methods such as radar. The degree of Coast Guard involvement will depend upon the type(s) of material dumped. "Surveillance" of ocean dumping is not restricted to dedicated observations, to specific ocean disposal activities, or to a designated dump site. Any Coast Guard unit that observes a suspected violation shall report it to the district commander (m) for evaluation/investigation. The dump vessel's movements to and from the site are of equal and possibly greater concern. Random surveillance should be conducted to discourage illegal dumping, dumping without a permit, dumping not in accordance with valid permits, or dumping at other than the sites authorized on the permits. No dedicated surveillance missions are presently anticipated for the enforcement of general permits.

c. Surveillance Methods. Surveillance will be accomplished utilizing one of the following methods, based on practicality and resource availability:

- (1) Assignment of a vessel/aircraft to rendezvous with the transporting vessel at the dump site, or escort the vessel to the dump site;
- (2) Surveillance of dump vessel routes or dump sites by vessel/aircraft in response to specific or frequent disposal activity;
- (3) Assignment of a shiprider to ride the dump vessel to the dump site;

- (4) On-site boarding of vessels;
- (5) Radar coverage of the dump site; or
- (6) Other electronic means which may be developed.

d. Surveillance By Shipriders

- (1) General. Shipriders are generally a more effective means of surveillance, particularly when night dumping is authorized or when distant dump sites are used. Shipriders are Coast Guard officers or petty officers who act as observers of dumping activities. They neither make changes to the provisions of the dumping permits nor direct the actions of the permittee in any way. They may, however, explain applicable provisions of the permit and the regulations. A shiprider must have a working knowledge of the Ocean Dumping Program, specific knowledge of the provisions of the permit, and the ability to verify the dump location utilizing the vessel's navigation equipment. While aboard for a dumping mission, the shiprider receives quarters and subsistence from the permittee.
- (2) Shiprider Duties. Prior to departure, the shiprider shall verify the presence of a valid permit and, if requested by EPA, oversee the drawing of a sample of the material to be dumped. The shiprider will confer with the vessel operator, explain the surveillance mission and the navigational requirements, and become familiar with the vessel's capabilities and procedures to comply with required dispersal rates. Dispersal rates are specified for most materials. Dispersal rates can be computed through such factors as load volume/weight, actual discharge time, and vessel speed. Failure to meet the stipulated dispersal rate shall be reported as a violation, regardless of other compliance with the permit conditions.

e. Vessel Boardings. Dump vessels will be boarded to examine: permits, waste manifests, and waste composition reports; navigational equipment, ocean dumping logs, and pollution prevention equipment; and vessel logs and records in accordance with Commandant Instructions (COMDTINST's) 5010.8 Series and M16250.26. Boardings will normally be conducted in port and can be combined with other activities, such as shiprider missions and obtaining dump material samples.

f. Sampling Guidelines

- (1) General. All materials, other than those not requiring permits, those prohibited from dumping, those disposed of under general permits, and dredged materials authorized under a USACE State of Findings, except in the New York and San Francisco areas, are defined herein as Category "B" materials. Some permits for Category "B" dumping activities require an analysis of a representative sample of each individual load. Other permits call for analysis at intervals ranging from monthly to semiannually, depending on the specific permit. Since the majority of

permits authorize the mixing of materials destined for the same disposal site, the EPA has, in most areas, established a program of spot sampling of the materials under individual permits, prior to mixing. This sampling effort is frequently conducted of individual tank truckloads prior to loading into the shoreside holding tank at the port of departure.

- (2) Interagency Coordination The district commander should confer with the EPA regional administrator and where the EPA has established a sampling program, develop practical procedures for Coast Guard officials to assist in this effort. Such procedures normally call for the sample to be drawn by facility personnel, in the presence of a Coast Guard official, and presented to that official properly packaged and documented. Additional coordination factors include certification of the samples, means of delivering samples to the appropriate laboratory for analysis, and special permit conditions that might be required. This sampling program is limited to EPA permitted dumping of non-containerized wastes. Coast Guard personnel shall not draw samples.

2. Monitoring Of Ocean Dump Sites. For the purpose of implementing the MPRSA, "monitoring" includes the collection of data to determine long and short-term effects of ocean dumping on the marine ecosystem (such as the toxic effects of pollutants), and the physical/chemical interactions of dumped material in the marine environment. The EPA directs laboratory-oriented efforts; the National Oceanic and Atmospheric Administration (NOAA) directs ocean survey activities; and the USACE directs research on the effects of dredged materials disposal. These and other agencies may request Coast Guard assistance in monitoring the effects of ocean dumping and other changes to the ocean ecosystem. As availability of resources permits, district commanders may provide such support as sample taking, site overflights, or the transporting of personnel to the disposal site or dump vessel.

F. Ocean Dumping Enforcement

1. Recording Ocean Dumpings The EPA regulations require the holder of any dumping permit to record specific information concerning disposal activities. This information is to be available for inspection by the EPA Administrator, the Commandant of the Coast Guard, or their designees'. The intent of these requirements is to ensure that dumping activities are conducted within the limitations of the ocean dumping permit. While boarding officers are checking the dumping permit and the vessel's navigational equipment, they shall check the vessel's dumping records to confirm that the following information is recorded:
 - a. The physical and chemical characteristics of the materials dumped under the authority of the permit;
 - b. The precise times and locations of dumping; and
 - c. Other information required as a condition of the permit by the EPA Administrator or the regional administrator.
2. Reports Of Violations. Under the authority of Section 107(c) of the MPRSA, information concerning violations of the act, regulations promulgated thereunder, and conditions imposed by the permit shall be submitted to the district commander (m) for review. The

report shall then be forwarded to the appropriate EPA regional administrator for action. Information copies shall be forwarded to Commandant (G-MEP). Where circumstances involve licensed or certificated personnel, an investigation should be conducted in accordance with volume V of this manual.

- a. Documentation Of Alleged Violations. Suspected violations should be documented to the maximum extent possible. Generally, the provisions of volume V of this manual shall be followed. Evidence should include statements from witnesses, photographs, samples, applicable message traffic, and communication log extracts. If samples are taken, they should include samples from the vessel's discharge wake, unpolluted water in its vicinity, and from the vessel's cargo. Samples should be handled, stored, and accounted for in accordance with the guidelines outlined in volume V of this manual.
 - b. Operational Waste Disposal The ocean disposal of ship-generated operational wastes such as trash, garbage, dunnage, or packing material is considered ocean dumping under the provisions of the MPRSA only when the material is taken on board for the express purpose of dumping at sea or from outside the U.S. and discharged into the territorial sea or the contiguous zone of the U.S. to the extent that it "may" affect the territorial sea or territory of the U.S. (see 33 U.S.C. 1411(b)) The discharge of any ship-generated operational waste must be done in compliance with the requirements of MARPOL Annex V (33 U.S.C. 1901 et seq.). Annex V prohibits the discharge of any plastic or garbage mixed with plastic into the ocean. Dunnage and packing materials must be discharged beyond 25 nm from shore. Unground garbage must be discharged beyond 12 nm. Garbage ground to less than one inch must be discharged beyond 3 nm. The discharge of all garbage is prohibited in the navigable waters of the United States and, in all other waters, within three nautical miles of the nearest land. For reporting purposes, all such operational discharges in the contiguous zone have the potential of affecting the territorial sea and therefore meet this stipulation. Inbound foreign vessels discharging such material in the contiguous zone shall be considered probable ocean dumping violators and shall be investigated to the fullest extent possible. Any discharge of dunnage or packing materials by foreign vessels into the territorial sea or the contiguous zone will be treated in the same manner, regardless of the vessel's direction of travel. The operational discharge of trash, garbage, dunnage, or packing materials by any vessel into the navigable waters of the U.S. or tributaries thereof is a reportable violation of the Refuse Act (33 U.S.C. 407). This authority may be utilized in situations in which an ocean dumping violation cannot be substantiated. The U.S. Department of Agriculture (USDA) plant and animal pest regulations prohibit the disposal of garbage from vessels in foreign trade into U.S. territorial waters. In addition to other action that may be taken (such as referral to a U.S. attorney for prosecution under the Refuse Act, or to the EPA for an ocean dumping violation) , Coast Guard personnel aware of a possible violation should notify the nearest office of USDA's Animal and Plant Health Inspection Service (APHIS). APHIS inspectors are located in most major seaports.
3. Quarterly Ocean Dumping Reports. Quarterly summaries of ocean dumping activities are required for Coast Guard program review. District commanders will submit the quarterly Ocean Dumping Activities Report (RCS-G-MEP) to Commandant (G-MEP-1) within 30

days of the end of the reporting period. Figure 5-1 lists the required information in a format which may be duplicated for transmittal to the Commandant. Negative reports are not required.

4. Interagency Agreements. Figure 5-2 reprints the interagency agreement between the USACE and the Coast Guard regarding surveillance of USACE contract vessels engaged in ocean dumping operations under Statements of Finding. The Coast Guard will not provide surveillance of USACE vessels, except in response to a specific request or report of violation; however, USACE vessels are subject to periodic observation by Coast Guard patrols. With the exception of activities in the New York and San Francisco areas (the only two areas where the USACE has continuous contract dumping), dedicated surveillance of USACE contract activities will only be conducted in response to specific USACE requests and reported on the quarterly Ocean Dumping Activities Report. A USACE permitted activity which is not associated with a Federal Navigation Project and authorized under an ocean dumping permit is classed as a Category "B" activity. Vessels carrying such materials should be observed and boarded as prescribed in section 5.E above.

FIGURE 5-1

REQUIRED DATA FOR OCEAN DUMPING REPORTS

CG-4957

_____ DISTRICT
OCEAN DUMPING SURVEILLANCE REPORT
FOR QUARTER ENDING _____

UNIT	#	HRS	CATEGORY B MATERIALS				#	TOTAL	
			#	HRS	#	HRS		HRS	TOTAL
DUMPS	_____	XXX	_____	XXX	_____	XXX	_____	XXX	_____
VIOLATIONS	_____	XXX	_____	XXX	_____	XXX	_____	XXX	XXX
DUMP OPS SUR	_____	XXX	_____	XXX	_____	XXX	_____	XXX	XXX
SURVEILLANCE									
Vessel	_____	_____	_____	_____	_____	_____	_____	_____	_____
Aircraft	_____	_____	_____	_____	_____	_____	_____	_____	_____
Shiprider	_____	_____	_____	_____	_____	_____	_____	_____	_____
Radar	_____	_____	_____	_____	_____	_____	_____	_____	_____
ODSS	_____	_____	_____	_____	_____	_____	_____	_____	_____
Reports	_____	_____	_____	_____	_____	_____	_____	_____	XXX
Samples	_____	_____	_____	_____	_____	_____	_____	_____	XXX
Boardings	_____	_____	_____	_____	_____	_____	_____	_____	XXX
Subtotal	_____	_____	_____	_____	_____	_____	_____	_____	_____
SUPPORT									
Unit	_____	_____	_____	_____	_____	_____	_____	_____	_____
Man	XX	_____	XX	_____	XX	_____	XXX	_____	XXX
Vehicle	XX	_____	XX	_____	XX	_____	XXX	_____	XXX
Admin.	XX	_____	XX	_____	XX	_____	XXX	_____	XXX
District	XX	_____	XX	_____	XX	_____	XXX	_____	XXX
Subtotal	XX	_____	XX	_____	XX	_____	XXX	_____	XXX
TOTAL	_____	_____	_____	_____	_____	_____	_____	_____	XXX

DUMP SITE ACTIVITY

Dump Site Title or Location	Material	Number of Dumps
_____	_____	_____
_____	_____	_____
_____	_____	_____

COMMENTS: _____

FIGURE 5-2

INTERAGENCY AGREEMENT BETWEEN THE U.S. ARMY CORPS OF ENGINEERS AND THE U.S. COAST GUARD

ARTICLE I - GENERAL INFORMATION

The U.S. Army Corps of Engineers (COE) and the U.S. Coast Guard (USCG) share surveillance and enforcement responsibilities over federally contracted activities which are associated with Federal Navigation Projects and which entail dredged material disposal operations in ocean waters. Section 107(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 directs the USCG to conduct surveillance and other appropriate enforcement activity to prevent unlawful transportation of material for dumping or unlawful dumping. The COE has a responsibility to insure that its funded activities associated with Federal Navigation Projects are conducted in accordance with contractual specifications. Title 33 CFR 209.145(j) directs district engineers to insure that disposal activity is conducted in conformance with the project plans and procedures expressed in the Statement of Findings.

ARTICLE II - PURPOSE

The parties have entered into this Agreement to promote the effective utilization of their respective resources while engaged in surveillance and enforcement of federally contracted ocean dumping activities associated with Federal Navigation Projects.

ARTICLE III - CAPABILITIES

The USCG has multi-mission resources deployed throughout the coastal region which engage in ocean dumping surveillance and other marine-related activities and which have been directed to report all suspicious ocean dumping activities. Operations permitting, these resources are available to investigate specific activities as directed.

The COE, as the agency responsible for Federal Navigation Projects, engages in surveillance efforts to insure that contract dumping is conducted in conformance with the project plans and procedures expressed in the Statement of Findings. The COE has specific knowledge as to the location, extent, and types of activities which involve ocean dumping of dredged material, and as to past performance records of contractors engaged in these activities. Thus, the COE is best able to direct a multi-agency ocean dumping surveillance and enforcement effort over these activities.

ARTICLE IV - RESPONSIBILITIES

The COE and the USCG will work in close cooperation with respect to surveillance and enforcement activities over contractors engaged in the disposal of dredged material in ocean waters associated with Federal Navigation Projects; however, the COE recognizes that it has the primary surveillance and enforcement responsibility over these activities.

The COE will direct the surveillance effort over COE contract dumpers engaged in ocean disposal activities.

The COE will conduct surveillance over COE contract dumpers engaged in ocean disposal activities and may augment this effort with available USCG resources.

The USCG will continue its surveillance efforts over COE contract barges engaged in ocean dumping in New York and San Francisco areas.

To facilitate optimum scheduling, the COE will notify the USCG in a timely manner of the COE's desires for specific surveillance missions. Requests will identify the geographical area, time of surveillance, and other specifics as may be needed to conduct an effective surveillance operation.

The USCG will, operations permitting, respond to requests from the COE for surveillance missions to oversee specific COE contract dumping activity.

The USCG will notify the COE of the results of any specifically requested surveillance missions.

While engaged in its various mission activities, the USCG will continue to be on the alert for suspicious ocean dumping operations.

ARTICLE V - BUDGETARY RESPONSIBILITIES

Each agency will fund all costs it incurs under this Agreement. Additionally, agreements that involve fund reimbursement in connection with specific activities may be entered into before the activity is undertaken.

ARTICLE VI - AMENDMENTS

This Agreement may be amended from time to time as may be mutually agreeable to the parties thereto.

ARTICLE VII - TERMINATION

This Agreement may be terminated by either party upon 60 days advance written notice thereof to the other party.

Done this Seventh day of September, 1976, at the City of Washington.

For the U. S. Army Corps of Engineers:

Signed by:
ERNEST GRAVES
MG, U.S. ARMY
DIRECTOR OF CIVIL WORKS

For the U. S. Coast Guard:

Signed by:
ROBERT H. SCARBOROUGH
RADM, U.S. COAST GUARD
CHIEF OF STAFF